102

DIVISIONAL FOREST OFFICE
Inwd. Regr. No. 235
Date 31-8-99
WORKING PLANS PARTY (I) S.C.

DIVISIONAL FOREST OFFICE
SOUTHERN CIRCLE.
WORKING PLANS PARTY II.

BOMBAY ACT No. II OF 1899.

An Act to make better provision in the City of Bombay and elsewhere for preventing the adulteration of Ghee and other articles of human food.

(The assent of the Governor General of India to this Act was published by the Governor of Bombay on the 7th June 1899.)

WHEREAS it is expedient to make better provision in the City of Bombay and elsewhere for preventing the adulteration of Ghee and other articles of human food; It is enacted as follows :—

PRELIMINARY.

Short title.

1. (1) This Act may be cited as the "Bombay Prevention of Adulteration Act, 1899."

Extent.

(2) This Act extends to the whole of the Presidency of Bombay, but it shall not come into force except as in this section provided.

(3) This section and section 6 shall come into force at once throughout the extent of this Act.

Commencement.

(4) The other sections of this Act shall come into force, subject to the provisions of sub-section (5),

(*a*) in the City of Bombay at once,

and

(*b*) in each municipal district elsewhere in respect of which the Governor in Council at any time so directs by notification, from such date, which shall not be less than one month from the date of the notification, as he prescribes therein in this behalf.

Provisions restricting the application of certain sections.

(5) (*a*) Nothing contained in any section coming into force under sub-section (4) shall apply

(i) in the City of Bombay, in the first instance, to any food other than ghee,

(ii)

[*Price*—1½ *Annas.*]

B 395—1

(ii) in any municipal district, to any food which is not of a kind to which the provisions contained in such section, are, by a notification under this section, for the time being made applicable in such district.

(*b*) But each of the said sections and of the amendments therein contained, in respect of which the Governor in Council at any time so directs by notification, shall in the City of Bombay or in any municipal district mentioned in such notification, apply to food of all kinds, or to food of any kind therein specified, from such date, which shall not be less than one month from the date of such notification, as shall be prescribed therein in this behalf.

(*c*) The Governor in Council may at any time cancel or vary, but not otherwise than in accordance with the provisions of this section, any notification made thereunder.

No proceedings to be instituted without leave of Commissioner or President or Vice-President of Municipality.

(*d*) No proceedings shall at any time be instituted under section 3, without the order or consent in writing,

(i) in the City of Bombay, of the Commissioner, or

(ii) in a municipal district, of the President or the Vice-President of the Municipality.

Summons when to be applied for and what it is to contain.

(*e*) In all prosecutions under section 3 or section 4, the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence against such section, unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused, and if such prosecution relates to a perishable article purchased from such person for the purpose of analysis, the application for such summons shall be refused unless it is made within twenty-eight days from the date of the purchase of such article, and particulars of the offence or offences against this Act

Act of which such person is accused, and the name of the prosecutor, shall be stated in the summons, and the day fixed for the hearing of the case shall not be less than seven days from the day on which the summons is served upon such person.

Meaning of "food," where its application is not restricted.

(6) In this section and in the amendments contained in section 6, the term "food" does not include drugs or water, but includes every other article which is used for food or drink by man.

Act to be read with Municipal Acts in force.

2. Subject to the provisions of section 1, this Act shall, in so far as it affects the City of Bombay, be read with, and construed as if it were part of, the City of Bombay Municipal Act, 1888, and, in so far as it affects any other part of the Presidency of Bombay, shall be read with, and construed as if it were part of, the Bombay District Municipal Acts, 1873 and 1884.

Bo. Act III of 1888.

Bo. Acts VI of 1873 and II of 1884.

PROVISIONS WHICH RELATE TO THE SALE OF FOOD, AND WHICH MAY BY NOTIFICATION BE MADE APPLICABLE TO ANY FOOD.

Punishment for selling human food not of the proper nature, substance or quality.

3. (1) Whoever sells to the prejudice of the purchaser any article of food which is not of the nature, substance or quality of the article demanded by such purchaser, shall be punished for the first offence with fine which may extend to one hundred rupees, and for a second or any subsequent offence with fine which may extend to five hundred rupees.

Protection to persons acting in good faith.

(2) Provided that no offence shall be deemed to have been committed under this section in the following cases, that is to say,—

(*a*) where any matter or ingredient not injurious to health has been added to the article of food, because the same is required for the production or preparation thereof, as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure of the food or conceal the inferior quality thereof,

(*b*)

(*b*) where in the process of production, preparation or conveyance of such article of food some extraneous substance has unavoidably become intermixed therewith,

(*c*) where any matter or ingredient not injurious to health has been added to or mixed with such article of food and, before the sale thereof, the seller has brought to the notice of the purchaser, either by means of a label distinctly and legibly written or printed on or with the article or otherwise, the fact that such matter or ingredient has been so added or mixed.

Explanation :—If in compliance with a demand for ghee any article is supplied which contains any substance not exclusively derived from milk, such article shall be deemed to have been sold to the prejudice of the purchaser within the meaning of sub-section (1), unless before the sale thereof the seller has brought to the notice of the purchaser the fact that it contains such substance.

What is or is not a good defence in prosecutions under this section.

(3) In any prosecution under this section it shall be no defence to allege that the vendor was ignorant of the nature, substance or quality of the article sold by him, or that the purchaser having bought only for analysis was not prejudiced by the sale.

Provided that the vendor shall not be deemed to have committed an offence under this section, if he proves to the satisfaction of the Court—

(*a*) that the article sold was purchased by him as the same in nature, substance and quality as that demanded by the purchaser, and with a written warranty to the effect that it was of such nature, substance and quality,

(*b*) that he had no reason to believe at the time when he sold it that the article was not of such nature, substance and quality as aforesaid, and

(*c*) that he sold it in the same state in which he purchased it.

4.

Persons refusing to sell any article to proper authority liable to penalty.

4. (1) If in the City of Bombay the Commissioner or any officer empowered by him in that behalf, or elsewhere the officer authorized by the Municipality for the purposes of section 68 of the Bo. Act VI of 1873. Bombay District Municipal Act, 1873, shall apply to purchase any article of food exposed for sale, and shall tender the price for a quantity not more than shall be reasonably requisite for the purpose of analysis, and the person exposing the same for sale shall refuse to sell the same, such person shall be liable to a penalty not exceeding fifty rupees.

Provisions for identifying sample purchased.

(2) The Commissioner or officer empowered as aforesaid in the City of Bombay, and elsewhere the officer authorised by the Municipality as aforesaid, on purchasing any article under this section for the purposes of analysis, shall, after the purchase shall have been completed, forthwith notify to the seller or his agent selling the article his intention to have the same analysed by the Chemical Analyser to Government, and shall offer to divide the article into three parts to be then and there separated and each part to be marked and sealed or fastened up in such manner as its nature will permit, and shall, if required to do so, proceed accordingly, and shall deliver one of the parts to the seller or his agent.

He shall afterwards retain one of the said parts for future comparison and submit the third part, if he deems it right to have the article analysed, to the Chemical Analyser to Government.

(3) If the seller or his agent do not accept the offer of the purchaser as aforesaid to divide the article purchased in his presence, the Chemical Analyser to Government receiving the article for analysis shall divide the same into two parts, and shall seal or fasten up one of those parts and shall cause it, either upon receipt of the sample or when he supplies his certificate, to be delivered to the purchaser, who shall retain the same for production in case proceedings shall afterwards be taken in the matter.

PROVISIONS

PROVISIONS WHICH RELATE TO EXPOSURE FOR SALE, &C., AND WHICH MAY BY NOTIFICATION BE MADE APPLICABLE TO ANY FOOD.

5. (1) In the City of Bombay Municipal Act, 1888, Bo. Act III of 1888.

Addition to section 415 of the City of Bombay Municipal Act, 1888.

(*a*) to section 415 there shall be added the following, namely:

"*Explanation.*—Any article exposed, hawked about, deposited in or brought to any place as aforesaid for sale as ghee, which contains any substance not exclusively derived from milk, shall be deemed for the purposes of this section and of sections 417 and 417A to be an article which is not what it is represented to be."

Addition of section to section 417 of the City of Bombay Municipal Act, 1888.

(*b*) After section 417 thereof, there shall be inserted the following new section, namely:

"417A. (1) In every case in which any article represented to be

(*a*) ghee, or

(*b*) food of a kind to which by virtue of a notification under the Bombay Prevention of Adulteration Act, 1899, the provisions of this section are for the time being applicable,

appears to the Magistrate dealing therewith under section 417, not to be what it is represented to be, the owner thereof or person in whose possession the same was found, not being merely carrier or bailee thereof, shall, if in such case the provisions of section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees." Act XLV of 1860.

Addition of section to section 68 of the Bombay District Municipal Act, 1873.

(2) In the Bombay District Municipal Act, 1873, after section 68 thereof, there shall be inserted the following new section, namely: Bo. Act VI of 1873.

"68A. (1) In every municipal district in which this section is, by virtue of a notification under the

the Bombay Prevention of Adulteration Act, 1899, for the time being in force, and applicable to food of all kinds or of any specified kind,

if any article to which this section is applicable as aforesaid, is intended for food or drink, and is in any place mentioned in section 68, the Municipality or officer authorised for the purposes of that section, in case such article appears not to be what it is represented to be, may seize the same, and if it appears to a Magistrate upon sufficient evidence, that such article is not what it is represented to be, such Magistrate may order the same to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for food or drink, and the owner thereof or the person in whose possession the same was found, not being merely carrier or bailee thereof, shall, if in such case the provisions of section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees.

Act XLV of 1860.

Explanation.—If such article having been exposed or stored in, or brought to any place mentioned in section 68, for sale as ghee, contains any substance not exclusively derived from milk, it shall be deemed to be, for the purposes of this section, an article which is not what it is represented to be."

(3) The proviso hereinafter contained shall be added as sub-section (2),

(*a*) to section 417A of the City of Bombay Municipal Act, 1888, as amended by sub-section (1) of this section,

Bo. Act III of 1888.

and

(*b*) to section 68A of the Bombay District Municipal Act, 1873, as amended by sub-section (2) of this section,

Bo. Act VI of 1873.

Amendments in the Bombay City Municipal Act, 1888, and in the Bombay District Municipal Act, 1873.

namely:

"(2)

Protection to persons acting in good faith.

"(2) Provided that when any article of food referred to in sub-section (1) appears to the Magistrate not to be what it is represented to be, solely by reason of the fact that there has been added to it some substance not injurious to health, no offence shall be deemed to have been committed by the owner of the article or the person in whose possession the same is found, if such owner or person proves to the satisfaction of the Magistrate—

(*a*) that such substance has been added to the article of food, because the same is required for the production or preparation thereof, as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure of the food or conceal the inferior quality thereof, or

(*b*) that in the process of production, preparation or conveyance of such article of food, the extraneous substance has unavoidably become intermixed therewith, or

(*c*) that, by a label distinctly and legibly written or printed on or with the said article of food or by other means of public description, he has given sufficient notice that such substance has been so added, or

(*d*) that—

(i) the said article was purchased by him with a written warranty that it was of a certain nature, substance and quality,

(ii) he had no reason to believe that it was not of such nature, substance and quality as aforesaid, and

(iii) it was not exposed, hawked about, or brought for sale by him otherwise than as an article of the nature, substance and quality specified in the written warranty, and was in the same state in which he purchased it."

PROVISIONS

PROVISIONS WHICH COME INTO FORCE AT ONCE AND ARE NOT RESTRICTED IN THEIR APPLICATION.

Bo. Act III of 1888.

6. (1) In the City of Bombay Municipal Act, 1888,—

(*a*) in sub-section (2) of section 417, for the words "he shall cause," there shall be substituted the following, namely :

"he may, and if it is diseased, unsound, unwholesome or unfit for human food and unfit for medicine, he shall cause".

New section to be inserted after section 417A in the City of Bombay Municipal Act.

(*b*) After section 417A of the said Act as amended by sub-section (1) and sub-section (3) of section 5 of this Act, there shall be inserted the following new sections, namely :

"417B. In every case in which food, on being dealt with under section 417, appears to the Magistrate to be diseased, unsound or unwholesome or unfit for human food, the owner thereof or the person in whose possession it was found, not being merely bailee or carrier thereof, shall, if in such case the provisions of section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees.

Act XLV of 1860.

Application for summons to be refused if not applied for within reasonable time.

"417C. In all prosecutions under section 417A or 417B the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence against such section, unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused."

Bo. Act VI of 1873.

Amendment of section 68 of the Bombay District Municipal Act, 1873.

(2) In section 68 of the Bombay District Municipal Act, 1873, for the words "shall be liable to the penalty provided by section 273 of the Indian Penal Code" therein, there shall be substituted the following, namely :

Act XLV of 1860.

"shall

"shall, if in such case the provisions of section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees.

Application for summons to be refused if not applied for within reasonable time.

"In all prosecutions under this section or under section 68A, the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence against such section, unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused."

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.